

Message Text

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INFO OCT-01 IO-13 EB-08 ARA-10 ISO-00 SS-15 JUSE-00
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FM SECSTATE WASHDC
TO AMEMBASSY CARACAS IMMEDIATE
AMEMBASSY KINGSTON IMMEDIATE
INFO USMISSION USUN NEW YORK
USMISSION GENEVA

C O N F I D E N T I A L STATE 178351

C O R R E C T E D C O P Y (LINE 20, PARA 3 OMITTED)

E.O. 11652: GDS

TAGS: EGEN, EINV, ECOSOC, UN

SUBJECT: BRIBERY TREATY INITIATIVE

REFS: (A) GENEVA 10696; (B) STATE 171038;
(C) STATE 168317; (D) STATE 168316

1. AS INDICATED REF D ECOSOC WORKING GROUP ON CORRUPT
PRACTICES HAS MADE GOOD PROGRESS IN DEVELOPING AN AGREE-
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MENT ON ILLICIT PAYMENTS AND RECOMMENDED THAT ECOSOC
RECONSIDER THE QUESTION OF CONVENING A DIPLOMATIC
CONFERENCE TO ADOPT AN AGREEMENT "WITH A VIEW TO SETTING
AN EARLY DATE" FOR SUCH A CONFERENCE. U.S. IS SEEKING
SUPPORT FOR A RESOLUTION IN CURRENT ECOSOC MEETINGS IN
GENEVA CALLING FOR SUCH A CONFERENCE IN 1979 (REF B).
WE BELIEVE IT IS IMPORTANT TO SET A DATE NOW FOR THE
CONFERENCE IN VIEW OF DEGREE OF PROGRESS REACHED AND TO
RETAIN MOMENTUM. OPPONENTS OF THE U.S. INITIATIVE HOPE
THAT BY EXTENDING PREPARATORY WORK WITHOUT SCHEDULING A

CONFERENCE THEY MAY BE ABLE TO AVOID AN EVENTUAL AGREEMENT. IN PAST YEARS, IN ADDITION, THERE WERE INDICATIONS THAT SOME G-77 LEADERS WOULD SEEK TO UTILIZE U.S. INTEREST IN CONCLUDING AN AGREEMENT ON ILLICIT PAYMENTS AS LEVERAGE ON US TO SUPPORT THEIR DEMAND FOR A UN CODE OF CONDUCT ON TRANSNATIONAL CORPORATIONS BY LINKING THE TWO EXERCISES.

THE U.S. HAS CONSISTENTLY OPPOSED SUCH LINKAGE BECAUSE IT WOULD BE USED BY THE G777 TO PRESSURE US TO MAKE UNACCEPTABLE CONCESSIONS IN THE CODE OF CONDUCT EXERCISE.

2. REF A INDICATES THAT DESPITE RECENT PROGRESS IN THE WORKING GROUP, AND G-77'S CONSTRUCTIVE PARTICIPATION, G-77 LEADERSHIP IN THE ECOSOC IS RESISTING SETTING AN EARLY DATE (I.E., 1979 OR 1980) FOR THE CONFERENCE AND MAY INSIST ON LINKAGE WITH CODE OF CONDUCT AS A QUID PRO QUO ON AGREEMENT TO AN EARLY DATE. WE BELIEVE THIS ATTITUDE IS INCONSISTENT WITH THE STRONG SUPPORT GIVEN TO AN AGREEMENT ON ILLICIT PAYMENTS BY HEADS OF GOVERNMENT AT PANAMA ON JUNE 17, AND WITH THE UNDERSTANDING REACHED BY PRESIDENT CARTER AND VENEZULAN PRESIDENT PEREZ LAST YEAR. ACCORDINGLY, WE REQUEST YOU TO MAKE REPRESENTATIONS TO HOST GOVERNMENT TO CONFIDENTIAL

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INSTRUCT ITS DELEGATE AT ECOSOC TO SUPPORT U.S. RESOLUTION CALLING FOR A DIPLOMATIC CONFERENCE IN 1979, OR 1980 AT THE LATEST, WITHOUT LINKING THE ADOPTION OF AN AGREEMENT ON ILLICIT PAYMENTS BY THE CONFERENCE OR ITS ENTRY INTO FORCE WITH COMPLETION OF THE CODE OF CONDUCT. TO BE EFFECTIVE SUCH INSTRUCTIONS SHOULD BE SENT TO GENEVA BEFORE JULY 21.

3. THE FOLLOWING POINTS MAY BE DRAWN UPON AS APPROPRIATE:

(1) U.S. STRONGLY BELIEVES THAT AN INTERNATIONAL AGREEMENT TO DETER AND PUNISH ILLICIT PAYMENTS IN CONNECTION WITH INTERNATIONAL COMMERCIAL TRANSACTIONS BY NATIONAL MEASURES AND INTERNATIONAL COOPERATION IS IN THE INTEREST OF BOTH DEVELOPED AND DEVELOPING COUNTRIES. BRIBERY IS PARTICULARLY DAMAGING TO INTERESTS OF DEVELOPING COUNTRIES AS IT RAISES THE COSTS OF GOODS AND SERVICES NECESSARY FOR DEVELOPMENT AND CAN RESULT IN THE ACQUISITION OF INFERIOR PRODUCTS, PROGRAMS OR FACILITIES. HE PROPOSED TREATY WOULD REQUIRE HOME COUNTRIES TO TAKE NEW ACTIONS, INCLUDING CRIMINALIZATION OF BRIBERY OF FOREIGN OFFICIALS, TO CONTROL CORRUPT PRACTICES BY THEIR ENTERPRISES ABROAD.

(2) THE U.S. PROPOSAL FOR AN INTERNATIONAL AGREEMENT ON ILLICIT PAYMENTS IS OF STRONG PERSONAL INTEREST TO PRESIDENT CARTER. (3) THE WORK OF THE ECOSOC WORKING GROUP ON CORRUPT PRACTICES HAS BEEN ENDORSED BY THE UN COMMISSION ON TRANSNATIONAL CORPORATIONS. THE WORKING GROUP, WITH THE CONCURRENCE AND CONSTRUCTIVE COOPERATIONR

OF THE G-77, HAS RECOMMENDED TO ECOSOC THAT IT CONSIDER THE QUESTION OF CONVENING A DIPLOMATIC CONFERENCE TO CONCLUDE AN AGREEMENT ON ILLICIT PAYMENTS WITH A VIEW TO SETTING AN EARLY DATE FOR SUCH A CONFERENCE. THE HEADS OF GOVERNMENT MEETING WITH PRESIDENT CARTER IN PANAMA

ON JUNE 17 (JAMAICA, VENEZUELA, COLOMBIA, COSTA RICA AND PANAMA) EXPRESSED "THEIR STRONG SUPPORT FOR NEGOTIATIONS IN THE UNITED NATIONS TOWARD THE CONCLUSION OF A TREATY
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PROHIBITING BRIBERY AND ILLICIT PAYMENTS IN INTERNATIONAL TRANSACTIONS. (4) THE U.S. HAS CONSISTENTLY AGREED THAT THESE NEGOTIATIONS SHOULD IN NO WAY INTERFERE WITH WORK ON A CODE OF CONDUCT FOR TNC'S AND WE SEE NO CONFLICT BETWEEN THE TWO. THERE IS A BROAD CONSENSUS ON THE SUBSTANCE OF AN AGREEMENT ON ILLICIT PAYMENTS (CRIMINALIZATION, EXTRADITION, AND JUDICIAL ASSISTANCE) AND THERE IS NO REASON TO DELAY HOLDING A DIPLOMATIC CONFERENCE. WE ARE PREPARED TO CONTINUE TO WORK VERY HARD TOWARD SUCCESSFUL CONCLUSION OF THE NEGOTIATIONS ON THE CODE OF CONDUCT, BUT IN VIEW OF THE SUBSTANTIAL WORK THAT REMAINS, FURTHER DELAY OF AN AGREEMENT ON ILLICIT PAYMENTS WOULD MERELY PLAY INTO THE HANDS OF THOSE THAT DO NOT WISH TO SEE SUCH ACTION AGAINST CORRUPTION.

4' FOR CARACAS: REQUEST YOU SEEK APPOINTMENT WITH PRESIDENT PEREZ OR FORMIN CONSALVI TO EXPRESS OUR APPRECIATION FOR PEREZ'S ENDORSEMENT OF AN AGREEMENT ON ILLICIT PAYMENTS IN HIS MEETING WITH PRESIDENT CARTER LAST YEAR AND AT PANAMA THIS YEAR AND TO ASK FOR HIS HELP IN OBTAINING G-77 SUPPORT FOR THE U.S. RESOLUTION. RECENT REPORTS FROM OUR ECOSOC DELEGATION AFTER MEETING WITH FREDDY CHRISTIANS IS THAT GOV DELEGATION HAS TROUBLE WITH A DATE EARLIER THAN 1981. SUCH A LATE DATE WOULD IN OUR VIEW JEOPARDIZE THE PROGRESS RECENTLY ACHIEVED ON ILLICIT PAYMENTS TREATY, AND IS NOT CONSISTENT WITH ECOSOC WORKING GROUP RECOMMENDATION THAT AN EARLY DATE BE SET FOR THE CONFERENCE OR WITH JUNE 17 HEADS OF GOVERNMENT STATEMENT AT PANAMA. DELEGATION IS MEETING AGAIN AT NOON NEXT TUESDAY WITH CHRISTIANS TO EXPLORE GOV POSITION FURTHER.

5. FOR KINGSTON: REQUEST YOU SEEK APPOINTMENT WITH
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PRIME MINISTER MANLEY TO EXPRESS APPRECIATION FOR HIS SUPPORT OF AN AGREEMENT IN THE STATEMENT OF HEADS OF GOVERNMENT AT PANAMA AND FOR THE CONSTRUCTIVE LEADERSHIP OF THE JAMAICAN DELEGATE, STAFFORD NEIL, IN THE ECOSOC

WORKING GROUP. WE ARE CONCERNED BY APPARENT POSITION (SEE NOTE BELOW) OF JAMAICAN DELEGATION AT ECOSOC TO LINK ILLICIT PAYMENTS TREATY WITH WORK ON TNC CODE OF CONDUCT, WHICH WILL DELAY ACTION ON THE TREATY AND RISKS LOSS OF MOMENTUM. WE HOPE HE COULD INSTRUCT DELEGATION TO SUPPORT U.S. RESOLUTION AND HELP IN OBTAINING G-77 SUPPORT FOR IT. IN LIGHT OF THE FRANK AND CONSTRUCTIVE TALKS IN JAMAICA WITH UNDER SECRETARY COOPER, AND THE

EVIDENT DESIRE ON BOTH SIDES TO SEEK SOLUTIONS ON MAJOR ISSUES BETWEEN US, JAMAICAN SUPPORT IN THIS AREA WOULD MAKE A POSITIVE CONTRIBUTION. IF EMBASSY BELIEVES APPOINTMENT WITH MANLEY WOULD NOT BE DESIRABLE, YOU SHOULD ADVISE DEPARTMENT SOONEST. NOTE: WE ARE NOT POSITIVE THAT LINKAGE IS PART OF JAMAICAN POSITION, AND MAY HAVE BEEN RAISED BY JAMAICAN DELEGATE IN ROLE AS GROUP 77 SPOKESMAN.

CHRISTOPER

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<< END OF DOCUMENT >>

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